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PATENT  
Attorney Docket No. 036297-5010-US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 02 2004

In re Patent Application of )

Martin J. GOLDBERG, *et al.* )

Serial No. 09/776,770 )

Filed: February 6, 2001 )

For: METHODS AND COMPOSITIONS )  
FOR AMPLIFYING DETECTABLE )  
SIGNALS IN SPECIFIC BINDING )  
ASSAYS )

Group Art Unit: 1634

Examiner: Sitton, Jehanne Soyaya

**TERMINAL DISCLAIMER**

(by Attorney)

Re: Double-Patenting Rejection

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Sir:

03/17/2004 CDESSAU 00000001 500310 09/776,770  
01 FC:1814 110.00 DA  
The undersigned petitioner, an attorney of record, is hereby acting for the under-  
named entities which are the 100% owner of all rights, title and interests in and to the  
above-noted application as shown by the Assignment recorded on February 6, 2001 on  
Reel 011563, Frame 0001 and hereby disclaims the terminal part of the statutory term of  
any patent granted on the subject application, which would extend beyond the expiration  
date of the full statutory term defined in 35 U.S.C. 145 to 156 and 173, as presently  
shortened (if at all) by any terminal disclaimer of the earlier United States Patent No.  
6,203,989 B1 to which said entity also has legal title. Petitioner hereby reserves the right  
to extend the term of the patent, which issues on this application, for regulatory delay or  
otherwise as the law allows. Petitioner hereby agrees that any patent so granted on the

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Attorney Docket No. 056297-5010 US01

subject application shall be enforceable only for and during such period that it and the above-noted patent are commonly owned. This agreement runs with any patent granted on the subject application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the above-noted patent, as presently shortened by any terminal disclaimer, of the above-listed patent in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The required Terminal Disclaimer fee (\$110.00) should be charged to Deposit Account No. 50-8310.

AFFYMETRIX, INC.

By Michael S. Tuscan  
Attorney of record: Michael S. Tuscan  
Registration No. 43,210

Date: March 2, 2004

I-WA/2148033.1